

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

United States Courts  
Southern District of Texas  
FILED

April 03, 2020  
.....

David J. Bradley, Clerk of Court

MICHAEL JONES, JR.,  
Plaintiff,

v.

NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA, AND  
STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY,  
Defendants.

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CIVIL ACTION NO: 3:20-cv-109

**DEFENDANT NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH,  
PA'S NOTICE OF REMOVAL**

**I. INTRODUCTION**

Pursuant to 28 USC § 1441 and 1446, this action is removed from the 149<sup>th</sup> District Court in Brazoria County, Texas, where this matter was pending under Cause No. 106331-CV and styled *Michael Jones, Jr. v. National Union Fire Insurance Company of Pittsburgh, PA, and State Farm Mutual Automobile Insurance Company*, (the "State Court Action"). Defendant National Union Fire Insurance Company of Pittsburgh, PA ("National Union") hereby files its Notice of Removal. This Notice of Removal is supported by the following evidence:

- A. Results of the public records search performed by counsel for National Union;
- B. Screenshot of Defendant National Union Fire Insurance Company of Pittsburgh, PA's website; and
- C. Defendant State Farm Mutual Automobile Insurance Company's United States Securities and Exchange Commission Form D

**II. NATURE OF THE SUIT**

This case is an underinsured motorist and breach of contract case in which Plaintiff Michael Jones, Jr. ("Plaintiff") alleges that his damages sustained in the underlying motor vehicle collision exceed the amount of automobile liability insurance covering the tortfeasor. Plaintiff alleges that after he complied with all the conditions precedent to recovering the benefits of the underinsured

motorist coverages of the automobile insurance contracts with Defendants, Defendants failed to settle Plaintiff's claim promptly, fairly, and equitably. Plaintiff's Original Petition at ¶13-14. Plaintiff seeks damages of "over \$200,000 but not more than \$1,000,000." *Id.* at ¶21.

### **III. TIMELINESS OF REMOVAL**

Plaintiff filed his Original Petition on January 9, 2020. Plaintiff then served National Union with a copy of the Original Petition on March 9, 2020. National Union hereby files its Notice of Removal. National Union's removal is timely because it is filed within thirty days after National Union was served. 28 U.S.C. § 1446.

### **IV. BASIS FOR REMOVAL**

Removal is proper under 28 U.S.C. §§ 1441 and 1332(a)(1) because there is complete diversity of citizenship between Plaintiff and both Defendants and the amount of controversy exceeds \$75,000.

According to Plaintiff's Original Petition, Plaintiff Jones is an individual resident of Brazoria County. For diversity purposes, citizenship means domicile. *Wade v. Wood*, 2006 U.S. Dist. LEXIS 87800, No. H-06-3195 at \*3 (S.D. Tex. 2006) *citing Mas v. Perry*, 489 F.2d 1396 (5th Cir. 1974). Domicile is defined as residence at a particular place accompanied with positive or presumptive proof of an intention to remain there for an unlimited time. *Freeman v. Northwest Acceptance Corp.*, 754 F.2d 553, 555-56 (5th Cir. 1985) (quoting *Mitchell v. United States*, 88 U.S. 350, 352 (1875)). Plaintiff's address, as identified on the police report documenting the accident at issue is 1519 Loose Stone Dr., Rosharon, TX 77583. Rosharon is in Brazoria County, Texas. In an abundance of caution, counsel for Defendant National Union performed a public records search using Plaintiff's date of birth listed in the police report to determine Plaintiff's residence. *See* Exhibit A. The most recent address that appeared under Plaintiff's name and date of birth was 14522 Windy Willow Dr., Missouri City, TX 77489. Missouri City is in Fort Bend County, Texas. *Id.* The public records search performed by counsel for National Union indicated

that Plaintiff has resided at that address since July 2017. *Id.* Thus, Plaintiff is either a resident of Brazoria County or Fort Bend County, Texas.

Defendant National Union is a Pennsylvania Insurance Business Corporation incorporated in the State of Pennsylvania. A corporation is a citizen of every State in which it has been incorporated and of the State where it has its principal place of business. 28 USCS § 1332(c)(1). National Union's principal place of business, as indicated by their main website, is 175 Water Street, New York, NY 10038. *See* Exhibit B. Defendant State Farm Mutual Automobile Insurance Company is an Illinois corporation with its principal place of business in Bloomington, Illinois. *See* Exhibit C. Therefore, complete diversity exists.

Plaintiff alleges damages over \$200,000 but not more than \$1,000,000. *Plaintiff's Petition* at ¶21. Thus, the amount in controversy requirement is also satisfied.

#### **V. THIS NOTICE IS PROCEDURALLY CORRECT**

Defendant has attached to its Notice of Removal the documents required by 28 U.S.C. § 1446(a) and Local Rule 81 as follows:

- D. A copy of the docket sheet in the state court action.
- E. All executed process in the case;
- F. All pleadings asserting the parties' causes of action;
- G. A list of all counsel of record; and
- H. Civil Cover Sheet

This action may be removed to this Court pursuant to 28 U.S.C. § 1441(b), because citizenship of the parties is diverse. This action is removable to this Court because this United States District Court and Division embraces the place where the State Court Action was pending. 28 U.S.C. §§ 124(c)(6), 1441(a).

## I. CONCLUSION

Since diversity jurisdiction exists over Plaintiff's claims as set forth herein, Defendant National Union desires and is entitled to remove the lawsuit filed in the 149<sup>th</sup> Judicial District Court of Brazoria County, Texas to the United States District Court for the Southern District of Texas, Galveston Division.

Respectfully submitted,

/s/ David J. Metzler

**DAVID J. METZLER**

Texas Bar No. 13982550

dmetzler@cowlesthompson.com

**COWLES & THOMPSON, P.C.**

901 Main Street, Suite 3900

Dallas, Texas 75202

(214) 672-2167 (Telephone)

(214) 672-2367 (Telecopier)

**ATTORNEY FOR DEFENDANT  
NATIONAL UNION FIRE  
INSURANCE COMPANY OF  
PITTSBURGH, PA**

## CERTIFICATE OF SERVICE

The undersigned certifies that on the 3rd day of April, 2020, a true and correct copy of the foregoing document was delivered via electronic service to counsel of record below.

Sylvester Anderson  
Regency Square  
6001 Savoy Drive, Suite 305  
Houston, Texas 77036  
Tel: (713) 533-9500  
Fax: (713) 533-9645  
[sa@sylvesteranderson.com](mailto:sa@sylvesteranderson.com)  
**COUNSEL FOR PLAINTIFF**

Scott G. Marcinkus  
State Bar No. 24099703  
Lindow, Stephens, Treat, LLP  
One Riverwalk Place  
700 N. St. Mary's Street, Suite 1700  
San Antonio, Texas 78205  
Tel: (210) 227-2200  
Fax: (210) 227-4602  
[SMARCINKUS@1stlaw.com](mailto:SMARCINKUS@1stlaw.com)  
**COUNSEL FOR DEFENDANT**  
**STATE FARM MUTUAL**  
**AUTOMOBILE INSURANCE**

/s/ David J. Metzler  
**DAVID J. METZLER**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION**

**MICHAEL JONES, JR.,  
Plaintiff,**

**v.**

**NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA, AND  
STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY,  
Defendants.**

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**CIVIL ACTION NO: 3:20-cv-109**

**INDEX OF MATTERS BEING FILED WITH THIS NOTICE OF REMOVAL**

- Exhibit A: Results of the public records search performed by counsel for National Union.
- Exhibit B: Screenshot of Defendant National Union Fire Insurance Company of Pittsburgh, PA's website.
- Exhibit C: Defendant State Farm Mutual Automobile Insurance Company's United States Securities and Exchange Commission Form D.
- Exhibit D: A copy of the docket sheet in the state court action.
- Exhibit E: All executed process in the case.
- Exhibit F: All pleadings asserting the parties' causes of action.
- Exhibit G: A list of all counsel of record.
- Exhibit H: Civil Cover Sheet.

Respectfully submitted,

/s/ David J. Metzler

**DAVID J. METZLER**

Texas Bar No. 13982550

dmetzler@cowlesthompson.com

**COWLES & THOMPSON, P.C.**

901 Main Street, Suite 3900

Dallas, Texas 75202

(214) 672-2167 (Telephone)

(214) 672-2367 (Telecopier)

**ATTORNEY FOR DEFENDANT**

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Sylvester Anderson  
Regency Square  
6001 Savoy Drive, Suite 305  
Houston, Texas 77036  
Tel: (713) 533-9500  
Fax: (713) 533-9645  
sa@sylversteranderson.com  
**COUNSEL FOR PLAINTIFF**

Scott G. Marcinkus  
Lindow, Stephens, Treat, LLP  
One Riverwalk Place  
700 N. St. Mary's Street, Suite 1700  
San Antonio, Texas 78205  
Tel: (210) 227-2200  
Fax: (210) 227-4602  
SMARCINKUS@1stlaw.com  
**COUNSEL FOR DEFENDANT**  
**STATE FARM MUTUAL**  
**AUTOMOBILE INSURANCE**

/s/ David J. Metzler

**DAVID J. METZLER**

# EXHIBIT A

**Person Locator 6**

23 Source Document(s)





**PhonesPlus Records**

5 Source Document(s)

**Voter Registrations**

2 Source Document(s)

**Key**

-  High Risk Indicator. These symbols may prompt you to investigate further.
-  Moderate Risk Indicator. These symbols may prompt you to investigate further.
-  General Information Indicator. These symbols inform you that additional information is provided.
-  The most recent telephone listing as reported by the EDA source.

**Important:** The Public Records and commercially available data sources used on reports have errors. Data is sometimes entered poorly, processed incorrectly and is generally not free from defect. This system should not be relied upon as definitively accurate. Before relying on any data this system supplies, it should be independently verified. For Secretary of State documents, the following data is for information purposes only and is not an official record. Certified copies may be obtained from that individual state's Department of State.

Your DPPA Permissible Use: Litigation

Your GLBA Permissible Use: Resolving Customer Disputes or Inquiries

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**2 OF 35 RECORD(S)****FOR INFORMATIONAL PURPOSES ONLY**

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Date:3/31/2020

Report processed by:

Cowles & Thompson P.C.

Full Name	Address	County	Phone
JONES, MICHAEL EUGENE JR	14522 WINDY WILLOW DR  MISSOURI CITY, TX 77489-1868  FORT BEND COUNTY	FORT BEND	None Listed

**ADDITIONAL PERSONAL INFORMATION**

SSN	DOB	Gender	LexID(sm)	Email
466-79-XXXX	7/1976		001280389472	EMACK81@GMAIL.COM
	(Age:43)			JENNIFER2ROSE@YAHOO.COM
				MRGUS6601@GMAIL.COM
				CLONGROB2013@YAHOO.COM
				COACHMIKEJONES.24@GMAIL.COM

**Subject Summary**

**No. Address**

HOUSTON, TX 77090-5307

HARRIS COUNTY

18: 14400 ELLA BLVD APT 149

HOUSTON, TX 77014-2540

HARRIS COUNTY

**Address Details****1: 14522 WINDY WILLOW DR MISSOURI CITY, TX 77489-1868****Address****Dates****Phone**

14522 WINDY WILLOW DR

7/2017 - 3/2020

MISSOURI CITY, TX 77489-1868

FORT BEND COUNTY

**Census Data for Geographical Region**

Median Head of Household Age: 32

Median Income: \$41,237

Median Home Value: \$115,861

Median Education: 13 years

**Household Members**

None Listed

**Other Associates**

TERRANCE, GEORGE SR

**2: 2025 SANDY KNOLL DR MISSOURI CITY, TX 77489-2901****Address****Dates****Phone**

2025 SANDY KNOLL DR

2006 - 8/2019

(281) 969-8646

MISSOURI CITY, TX 77489-2901

(281) 499-4932

FORT BEND COUNTY

**Census Data for Geographical Region**

# **EXHIBIT B**

Contact Us

x +

← → ↻ aig.com/business/insurance/group-accident/specialty-accident-and-health/contact-us ☆ ⓘ ⋮

Apps

Captcha

91313

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SUBMIT

Insurance policies issued by National Union Fire Insurance Company of Pittsburgh, Pa. (NUFIC), a Pennsylvania Insurance company, with its principal place of business at 175 Water Street, 15th Floor, New York, NY10038. It is currently authorized to transact business in all states and the District of Columbia. NAIC No. 19445. NUFIC is responsible for the financial obligations of its Insurance products and is a member of American International Group, Inc. (AIG). Products may not be available in all states and product features may vary by state. Guarantees are backed by the claims-paying ability of the issuing Insurance company.

For further information on how AIG uses personal information and to access contact details if you have any questions, please see our full Privacy Policy for your country at: <http://www.aig.com/global/privacy>.

[Privacy Policy](#)

# EXHIBIT C

SEC FORM D/A

sec.gov/Archives/edgar/data/1692861/000120919117067507/xslFormDX01/primary\_doc.xml

Apps

The Securities and Exchange Commission has not necessarily reviewed the information in this filing and has not determined if it is accurate and complete.  
The reader should not assume that the information is accurate and complete.

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549  
**FORM D**

**Notice of Exempt Offering of Securities**

OMB APPROVAL	
OMB Number:	3235-0078
Estimated average burden hours per response:	4.00

---

**1. Issuer's Identity**

CIK (Filer ID Number) Previous Names ☒ None Entity Type

[0000315032](#) ☒ Corporation

Name of Issuer ☐ Limited Partnership

[STATE FARM MUTUAL AUTOMOBILE INSURANCE CO](#) ☐ Limited Liability Company

Jurisdiction of Incorporation/Organization ☐ General Partnership

[ILLINOIS](#) ☐ Business Trust

Year of Incorporation/Organization ☐ Other (Specify)

☒ Over Five Years Ago

☐ Within Last Five Years (Specify Year)

☐ Yet to Be Formed

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**2. Principal Place of Business and Contact Information**

Name of Issuer

[STATE FARM MUTUAL AUTOMOBILE INSURANCE CO](#)

Street Address 1 Street Address 2

[One State Farm Plaza](#)

City State/Province/Country ZIP/Postal Code Phone Number of Issuer

[Bloomington](#) [ILLINOIS](#) [61710](#) [3097667784](#)

---

**1. Issuer's Identity**

CIK (Filer ID Number) Previous Names ☒ None Entity Type

[0000900390](#) ☒ Corporation

Name of Issuer ☐ Limited Partnership

# EXHIBIT D

## 149th District Court

NAMES OF PARTIES	ATTORNEYS	KIND OF ACTION	DATE OF FILING
<b>Michael Jones, Jr.</b> <b>vs.</b> <b>National Union Fire Insurance Company, et al</b>	SYLVESTER ANDERSON	<b>Contract - Other</b>	01/09/2020
			Jury Fee Paid: \$
	-Def Atty		Paid by: Date:

[illegible]



**CASE SUMMARY****CASE No. 106331-CV**

**Michael Jones, Jr.**  
**vs.**  
**National Union Fire Insurance Company, et al**

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 §  
 §

Location: **149th District Court**  
 Judicial Officer: **Holder, Terri**  
 Filed on: **01/09/2020**








**CASE INFORMATION**Case Type: **Contract - Other****DATE****CASE ASSIGNMENT****Current Case Assignment**

Case Number 106331-CV  
 Court 149th District Court  
 Date Assigned 01/09/2020  
 Judicial Officer Holder, Terri




**PARTY INFORMATION**

<b>Plaintiff</b>	<b>Jones, Michael, Jr.</b>	<i>Lead Attorneys</i> <b>Anderson, Sylvester</b> <i>Retained</i> 713-533-9500(W)
<b>Defendant</b>	<b>National Union Fire Insurance Company</b>	<b>METZLER, DAVID J</b> <i>Retained</i> 214-672-2000(W)
	<b>State Farm Mutual Automobile Insurance Company</b>	<b>Marcinkus, Scott G.</b> <i>Retained</i> 210-227-2200(W)

**DATE****EVENTS & ORDERS OF THE COURT****INDEX**

01/09/2020	 Original Petition (1-10 Plaintiffs) (OCA) Party: Plaintiff Jones, Michael, Jr. <i>Plaintiff's Original Petition and Request for Disclosure- Michael Jones, Jr.</i>
01/09/2020	 Docket Sheet
02/14/2020	 Request <i>Process Request</i>
02/18/2020	<b>Citation by Certified Mail</b>  National Union Fire Insurance Company Unserved  State Farm Mutual Automobile Insurance Company Unserved
03/05/2020	 Petition Party: Plaintiff Jones, Michael, Jr. <i>Plaintiff's First Amended Petition and Request for Disclosure</i>
03/05/2020	 Request <i>Process Request</i>

**CASE SUMMARY**  
**CASE No. 106331-CV**

03/06/2020	<b>Citation by Certified Mail</b>  National Union Fire Insurance Company Unserved
03/16/2020	 Answer Party: Defendant State Farm Mutual Automobile Insurance Company <i>Defendant State Farm Mututal Automobile Insurance Company's Original Answer</i>
03/20/2020	 Answer Party: Defendant National Union Fire Insurance Company <i>Defendant National Union Fire Insurance Company of Pittsburgh, PA's Original Answer</i>

STATE OF TEXAS  
COUNTY OF BRAZORIA  
I certify that the foregoing is a true and correct  
copy of the original record as the same is on file in my office.  
Given under my hand and seal of the court at  
my office in Angleton, Texas  
RHONDA BYRCHAK, DISTRICT CLERK  
BY \_\_\_\_\_  
Deputy

CASE SUMMARY  
CASE NO. 10034-CV

Continued by Certified Mail  
National Union Fire Insurance Company  
Continued by Certified Mail  
National Union Fire Insurance Company  
Continued by Certified Mail  
National Union Fire Insurance Company  
Continued by Certified Mail  
National Union Fire Insurance Company

STATE OF TEXAS  
COUNTY OF BRAZORIA

I certify that the foregoing is a true and correct  
copy of the original record on file in my office.  
Given under my hand and seal of the court at  
my office in Angleton, Texas.

RHONDA BARCHAK, DISTRICT CLERK

By Rhonda Allison Deputy

03/25/2020



# **EXHIBIT E**

Filed for Record  
2/14/2020 1:21 PM  
Rhonda Barchak, District Clerk  
Brazoria County, Texas  
106331-CV  
Cathy Richard, Deputy

**BRAZORIA COUNTY DISTRICT CLERK  
RHONDA BARCHAK**

**Process Request**

**Please Print All Information Clearly & Neatly**

Cause No. 106331-CV For each party served you must furnish 1 copy of the document(s).

DOCUMENT(S) TO BE SERVED Plaintiff's Original Petition

**Name/Business to be Served:**

1. Name NATIONAL UNION FIRE INSURANCE COMPANY  
Registered Agent (if applicable) CORPORATION SERVICE COMPANY  
Address 211 E 7TH STREET, SUITE 620  
City, State, Zip AUSTIN, TX 78701-3218

2. Name STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY  
Registered Agent (if applicable) CORPORATION SERVICE COMPANY  
Address 211 E 7TH STREET, SUITE 620  
City, State, Zip AUSTIN, TEXAS 78701-3218

**Service By (check one)**

☐ Constable

☐ Sheriff

☒ Certified Mail **Check One:** ☐ Restricted Delivery ☒ Non-Restricted Delivery

Pickup by whom: \_\_\_\_\_

Return by mail to: \_\_\_\_\_

Return by e-mail to (Provide e-mail address): \_\_\_\_\_

☐ Citation by Publication (Please fill out the box below)

☐ Citation by Posting at Courthouse Door (Please fill out the box below)

☐ Divorce/Family Citation with or without Children

Name and Address of Publication: \_\_\_\_\_

Relief Request Required: \_\_\_\_\_

Date of Birth/Place of Birth for Each Child Required: \_\_\_\_\_

☐ Civil

**\*\*As per TRCP 115, attach legal description of property if applicable and state relief requested**

Name and Address of Publication: \_\_\_\_\_

Relief Request Required: \_\_\_\_\_

Property Description: \_\_\_\_\_

Notes: \_\_\_\_\_

**Service Requested by:**

Name Sylvester Anderson [Signature]  
Printed name Signature

Phone No. 713-533-9500 Email SA@SYLVESTERANDERSON.COM

BRAZORIA COUNTY DISTRICT CLERK  
RHONDA BARCHAK

Please Print All Information Clearly & Neatly

Case No. 19-03-00000 For each party, attach a copy of the document(s) to be served. (Indicate by check mark the type of document(s) to be served.)

1. Name National Union Fire Insurance Company  
Registered Agent (If applicable) 21 E. M Street, Suite 100  
Address 21 E. M Street, Suite 100  
City, State, Zip Angleton, Texas 77517-3218

2. Name State Farm Mutual Insurance Company  
Registered Agent (If applicable) 21 E. M Street, Suite 100  
Address 21 E. M Street, Suite 100  
City, State, Zip Angleton, Texas 77517-3218

Service by (check one)

☐ Certified

☐ Sheriff

☒ Certified Mail, Return Receipt ☐ Registered Delivery ☐ Non-Registered Delivery

Return by mail to:

Return by e-mail to (if available e-mail address):

Reason for Publication (Please fill out the box below):

Reason for Filing at Courtroom Door (Please fill out the box below):

☐ Divorce/Annulment/Child Support with or without Children

Name and Address of Publication:

Printed Name of Publication:

STATE OF TEXAS  
COUNTY OF BRAZORIA

I certify that the foregoing is a true and correct copy of the original record on file in my office. Given under my hand and seal of the court at my office in Angleton, Texas.

RHONDA BARCHAK, DISTRICT CLERK

By Ronda Allison Deputy



03/25/2020

Service I.D. No. 174137

THE STATE OF TEXAS

CAUSE NO. 106331-CV  
149th District Court  
Michael Jones, Jr.

vs.

National Union Fire Insurance Company, et al

**FILED**  
at 4:30 o'clock P M.  
FEB 18 2020  
*Rhonda Barchak*  
Clerk of District Court Brazoria Co., Texas  
BY \_\_\_\_\_ DEPUTY

To: National Union Fire Insurance Company  
By serving it's Registered Agent  
Corporation Service Company  
211 E 7th Street, Suite 620  
Austin, TX 78701-3218

Defendant

## Notice:

You have been sued. You may employ an attorney. If you or your Attorney do not file a written answer with the Clerk who issued this Citation by **10:00 a.m.** on the Monday next following the expiration of 20 days after you were served this **Citation and Plaintiff's Original Petition and Request for Disclosure**, a Default Judgment may be taken against you. If filing Pro Se, said answer may be filed by mailing same to: Brazoria County District Clerk's office, 111 E. Locust, Suite 500, Angleton, TX 77515-4678 or by bringing said answer in person to the aforementioned address.

The case is presently pending before the **149th District Court** of Brazoria County sitting in Angleton, Texas, 77515 and was filed on the **9th day of January, 2020**.

The name and address of the attorney filing this action (or party, if pro se') is **Sylvester Anderson, 6001 Savoy Drive, Suite 305, Houston, TX 77036**.

CERTIFICATE OF DELIVERY BY MAIL

I hereby certify that on the **18th day of February, 2020**, at **4:30 p.m.** I mailed to **National Union Fire Insurance Company** by certified mail a true copy of this Citation with a copy of the **Plaintiff's Original Petition and Request for Disclosure** attached hereto.

Issued under and given under my hand and seal of said Court, at Angleton, Texas, on the **18th day of February, 2020**.

**RHONDA BARCHAK, DISTRICT CLERK**  
Brazoria County, Texas

By *Cathy Richard* Deputy  
Cathy Richard



Certified Article Number

9414 7266 9904 2160 5439 72

SENDER'S RECORD



9590 9266 9904 2160 5439 75

Citation by R/A by Certified Mail

**ORIGINAL**

Service I.D. No. 174137

**CAUSE No. 106331-CV**  
**149th District Court**  
**Michael Jones, Jr. vs. National Union Fire Insurance Company, et al**

---

**OFFICER'S RETURN BY MAIL**

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the Defendant was served by registered mail or certified mail, with delivery restricted to addressee only, return receipt requested, a true copy of this citation with a copy of the petition attached thereto. Return receipt attached hereto.

OR

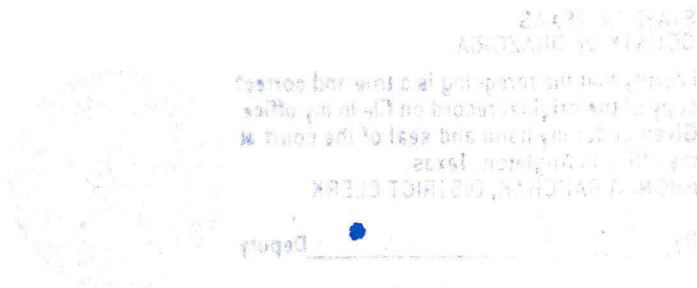
This citation was not executed for the following reason:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RHONDA BARCHAK, DISTRICT CLERK

By \_\_\_\_\_, Deputy

ATTACH  
RETURN  
RECEIPT  
WITH  
ADDRESSEE'S SIGNATURE



CAUSE NO. 18871-CV

149th District Court

Michael Jones, Jr. vs. National Union Fire Insurance Company, et al.

OFFICER'S RETURN BY MAIL

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the Defendant was served by registered mail or certified mail with delivery restricted to addressee only, return receipt requested, a true copy of this citation with a copy of the petition attached thereto. Return receipt enclosed hereto.

OR

This citation was not executed for the following reason:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RHONDA BARCHAK, DISTRICT CLERK

By \_\_\_\_\_ Deputy

ATTACH  
RETURN  
RECEIPT  
WITH

ADDRESSER'S SIGNATURE

STATE OF TEXAS  
COUNTY OF BRAZORIA

I certify that the foregoing is a true and correct copy of the original record on file in my office. Given under my hand and seal of the court at my office in Angleton, Texas.  
RHONDA BARCHAK, DISTRICT CLERK

By Rhonda Allison Deputy

03/25/2020



Service I.D. No. 174138

THE STATE OF TEXAS

CAUSE NO. 106331-CV  
149th District Court  
Michael Jones, Jr.

vs.

National Union Fire Insurance Company, et al

**FILED**  
at 4:30 o'clock p.m.  
FEB 18 2020  
Rhonda Barchak  
Clerk of District Court Brazoria Co., Texas  
BY \_\_\_\_\_ DEPUTY

To: State Farm Mutual Automobile Insurance Company  
By serving it's Registered Agent  
Corporation Service Company  
211 E 7th Street, Suite 620  
Austin, Texas 78701-3218

Defendant

## Notice:

You have been sued. You may employ an attorney. If you or your Attorney do not file a written answer with the Clerk who issued this Citation by **10:00 a.m.** on the Monday next following the expiration of 20 days after you were served this **Citation and Plaintiff's Original Petition and Request for Disclosure**, a Default Judgment may be taken against you. If filing Pro Se, said answer may be filed by mailing same to: Brazoria County District Clerk's office, 111 E. Locust, Suite 500, Angleton, TX 77515-4678 or by bringing said answer in person to the aforementioned address.

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The name and address of the attorney filing this action (or party, if pro se') is **Sylvester Anderson, 6001 Savoy Drive, Suite 305, Houston, TX 77036**.

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Issued under and given under my hand and seal of said Court, at Angleton, Texas, on the **18th day of February, 2020**.

**RHONDA BARCHAK, DISTRICT CLERK**  
Brazoria County, Texas

By Cathy Richard Deputy  
Cathy Richard

**Certified Article Number**

9414 7266 9904 2160 5439 89

**SENDER'S RECORD**

9590 9266 9904 2160 5439 82

Citation by R/A by Certified Mail

**ORIGINAL**

Service I.D. No. 174138

**CAUSE No. 106331-CV**  
**149th District Court**  
**Michael Jones, Jr. vs. National Union Fire Insurance Company, et al**

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**OFFICER'S RETURN BY MAIL**

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the Defendant was served by registered mail or certified mail, with delivery restricted to addressee only, return receipt requested, a true copy of this citation with a copy of the petition attached thereto. Return receipt attached hereto.

OR

This citation was not executed for the following reason:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RHONDA BARCHAK, DISTRICT CLERK

By \_\_\_\_\_, Deputy

ATTACH  
RETURN  
RECEIPT  
WITH  
ADDRESSEE'S SIGNATURE



STATE OF TEXAS  
COUNTY OF BRAZORIA  
I hereby certify that the foregoing is a true and correct  
copy of the original record on file in my office.  
Given under my hand and seal of the court at  
my office in Angleton, Texas  
RHONDA BARCHAK, DISTRICT CLERK  
By \_\_\_\_\_

CAUSE NO. 18031-CV  
19th District Court  
Michael Jones, Jr. vs. National Union Fire Insurance Company, et al

OFFICE'S RETURN BY MAIL  
I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the Defendant was served by registered mail or certified mail with delivery restricted to addressee only. Return receipt requested, a true copy of this citation with a copy of the petition attached thereto. Return receipt attached hereto.

OR

This citation was not executed for the following reason:

RHONDA BARCHAK, DISTRICT CLERK

By \_\_\_\_\_, Deputy

ATTACH  
RETURN  
RECEIPT  
WITH  
ADDRESSEE'S SIGNATURE

STATE OF TEXAS  
COUNTY OF BRAZORIA

I certify that the foregoing is a true and correct copy of the original record on file in my office. Given under my hand and seal of the court at my office in Angleton, Texas.

RHONDA BARCHAK, DISTRICT CLERK

By Rhonda Allison Deputy

03/25/2020



**U.S. Postal Service®**  
**CERTIFIED MAIL® RECEIPT**  
*Domestic Mail Only*

**USPS® ARTICLE NUMBER**

9414 7266 9904 2160 5439 72

Certified Mail Fee	\$	3.50
Return Receipt (Hardcopy)	\$	2.80
Return Receipt (Electronic)	\$	.00
Certified Mail Restricted Delivery	\$	.00
Postage	\$	.50
<b>Total Postage and Fees</b>	<b>\$</b>	<b>7.05</b>

FEB 19 2020

FEB 19

Postmark

Here

2020

**Sent to:**

National Union Fire Insurance Company  
 By serving it's Registered Agent  
 Corporation Service Company  
 211 E 7th Street, Suite 620  
 Austin, TX 78701-3218

**Reference Information**

Cathy Richard  
 106331-CV  
 149th District Court

PS Form 3800, Facsimile, July 2015

EX-101 TO STATE  
 AIRMAIL TO YINJING  
 Please see note at beginning of this receipt  
 with your mail to be kept in the mail  
 box until the original receipt is received  
 in the mail box and seal of the court  
 is received in Austin, Texas  
 149th DISTRICT COURT  
 D-101

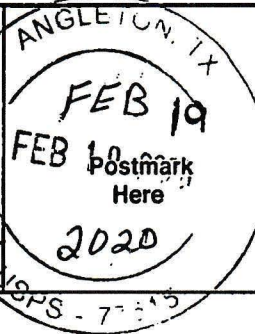


**U.S. Postal Service®**  
**CERTIFIED MAIL® RECEIPT**  
*Domestic Mail Only*

**USPS® ARTICLE NUMBER**

9414 7266 9904 2160 5439 89

Certified Mail Fee	\$	3.50
Return Receipt (Hardcopy)	\$	2.80
Return Receipt (Electronic)	\$	.00
Certified Mail Restricted Delivery	\$	.00
Postage	\$	.50
<b>Total Postage and Fees</b>	<b>\$</b>	<b>7.05</b>



**Sent to:**

State Farm Mutual Automobile Insurance  
 By serving it's Registered Agent  
 Corporation Service Company  
 211 E 7th Street, Suite 620  
 Austin, Texas 78701-3218

**Reference Information**

Cathy Richard  
 106331-CV  
 149th District Court

PS Form 3800, Facsimile, July 2015

I certify that the foregoing is a true and correct copy of the original record on file in my office. Given under my hand and seal of the court at my office in Angleton, Texas.  
RHONDA BARCHAK, DISTRICT CLERK

By Konda Allison

03/25/2020



**U.S. Postal Service®**  
**CERTIFIED MAIL® RECEIPT**  
*Domestic Mail Only*

**USPS® ARTICLE NUMBER**

9414 7266 9904 2160 5440 61

Certified Mail Fee \$ 3.50

Return Receipt (Hardcopy) \$ 2.80

Return Receipt (Electronic) \$ .00

Certified Mail Restricted Delivery \$ .00

Postage \$ .50

Total Postage and Fees \$ 7.00



**Sent to:**

National Union Fire Insurance Company  
 By serving it's Registered Agent  
 Corporation Service Company  
 211 E 7th Street, Suite 620  
 Austin, Texas 78701-3218

**Reference Information**

Cathy Richard  
 106331-CV  
 149th District Court

PS Form 3800, Facsimile, July 2015

STATE OF TEXAS  
 COUNTY OF BRAZORIA  
 I, \_\_\_\_\_, County Clerk of Brazoria County, Texas, do hereby certify that the within and foregoing is a true and correct copy of the original as filed for record in the County Clerk's Office, Brazoria County, Texas, on this \_\_\_\_\_ day of \_\_\_\_\_, 2020.  
 \_\_\_\_\_  
 County Clerk of Brazoria County, Texas

19th District Court  
100331-CV  
Cathy Richard  
Reference Information

Austin, Texas 78701-3218  
311 E 7th Street, Suite 630  
Corporation Service Company  
By serving it's Registered Agent  
National Union Fire Insurance Company

Sent for:

Total Postage and Fee \$ 4.00  
Postage \$ 2.00  
Certified Mail Return Receipt \$ 0.00  
Certified Mail Return Receipt \$ 0.00  
Return Receipt (Electronic) \$ 0.00  
Return Receipt (Electronic) \$ 2.80  
Certified Mail Fee \$ 3.20

ANGLETION, TX  
MAR 26 2020  
MAR 26 2020

STATE OF TEXAS  
COUNTY OF BRAZORIA

I certify that the foregoing is a true and correct  
copy of the original record on file in my office.  
Given under my hand and seal of the court at  
my office in Angleton, Texas.

RHONDA BARCHAK, DISTRICT CLERK

By Rhonda Allison Deputy

03/25/2020



Filed for Record  
3/5/2020 10:24 AM  
Rhonda Barchak, District Clerk  
Brazoria County, Texas  
106331-CV  
Cathy Richard, Deputy

**BRAZORIA COUNTY DISTRICT CLERK  
RHONDA BARCHAK**

**Process Request**

**Please Print All Information Clearly & Neatly**

Cause No. 106331-CV For each party served you must furnish 1 copy of the document(s).

DOCUMENT(S) TO BE SERVED Plaintiff's First Amended Petition and Request for Disclosure

**Name/Business to be Served:**

1. Name National Union Fire Insurance Company of Pittsburgh, PA  
Registered Agent (if applicable) Corporation Service Company  
Address 211 E 7th Street, Suite 620  
City, State, Zip Austin, Texas 78701-3218
2. Name \_\_\_\_\_  
Registered Agent (if applicable) \_\_\_\_\_  
Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_

**Service By (check one)**

- ☐ Constable  
☐ Sheriff  
☒ Certified Mail Check One: ☐ Restricted Delivery ☒ Non-Restricted Delivery  
Pickup by whom: \_\_\_\_\_  
Return by mail to: \_\_\_\_\_  
Return by e-mail to (Provide e-mail address): \_\_\_\_\_  
☐ Citation by Publication (Please fill out the box below)  
☐ Citation by Posting at Courthouse Door (Please fill out the box below)

☐ Divorce/Family Citation with or without Children

Name and Address of Publication: \_\_\_\_\_

Relief Request Required: \_\_\_\_\_

Date of Birth/Place of Birth for Each Child Required: \_\_\_\_\_

☐ Civil

**\*\*As per TRCP 115, attach legal description of property if applicable and state relief requested**

Name and Address of Publication: \_\_\_\_\_

Relief Request Required: \_\_\_\_\_

Property Description: \_\_\_\_\_

Notes: \_\_\_\_\_

**Service Requested by:**

Name Sylvester Anderson Sylvester Anderson  
Printed name Signature

Phone No. 713-533-9500 Email SAGSYLVESTERANDERSON.COM

Revised 03-06-2019

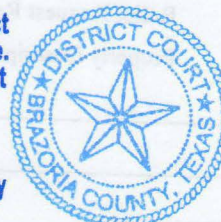
**POOR ORIGINAL**

STATE OF TEXAS  
COUNTY OF BRAZORIA

I certify that the foregoing is a true and correct copy of the original record on file in my office. Given under my hand and seal of the court at my office in Angleton, Texas.  
RHONDA BARCHAK, DISTRICT CLERK

By Kendra Allison Deputy

03/25/2020



Service I.D. No. 175741

THE STATE OF TEXAS

CAUSE NO. 106331-CV  
149th District Court  
Michael Jones, Jr.

vs.

National Union Fire Insurance Company, et al

FILED  
at 11:00 o'clock A M.  
MAR 06 2020  
Rhonda Barchak  
Clerk of District Court Brazoria Co., Texas  
BY \_\_\_\_\_ DEPUTY

To: National Union Fire Insurance Company of Pittsburg, PA  
By serving it's Registered Agent  
Corporation Service Company  
211 E 7th Street, Suite 620  
Austin, Texas 78701-3218

Defendant

Notice:

You have been sued. You may employ an attorney. If you or your Attorney do not file a written answer with the Clerk who issued this Citation by **10:00 a.m.** on the Monday next following the expiration of 20 days after you were served this **Citation and Plaintiff's First Amended Petition and Request for Disclosure**, a Default Judgment may be taken against you. If filing Pro Se, said answer may be filed by mailing same to: Brazoria County District Clerk's office, 111 E. Locust, Suite 500, Angleton, TX 77515-4678 or by bringing said answer in person to the aforementioned address.

The case is presently pending before the **149th District Court** of Brazoria County sitting in Angleton, Texas, 77515 and was filed on the **9th day of January, 2020**.

The name and address of the attorney filing this action (or party, if pro se') is **Sylvester Anderson, 6001 Savoy Drive, Suite 305, Houston, TX 77036**.

CERTIFICATE OF DELIVERY BY MAIL

I hereby certify that on the **6th day of March, 2020**, at **11:00 a.m.** I mailed to **National Union Fire Insurance Company** by certified mail a true copy of this Citation with a copy of the **Plaintiff's First Amended Petition and Request for Disclosure** attached hereto.

Issued under and given under my hand and seal of said Court, at Angleton, Texas, on the **6th day of March, 2020**.

RHONDA BARCHAK, DISTRICT CLERK  
Brazoria County, Texas

By Cathy Richard Deputy  
Cathy Richard



Certified Article Number

9414 7266 9904 2160 5440 61

SENDER'S RECORD



9590 9266 9904 2160 5440 64

Citation by R/A by Certified Mail

**ORIGINAL**

Service I.D. No. 175741

**CAUSE No. 106331-CV**  
**149th District Court**  
**Michael Jones, Jr. vs. National Union Fire Insurance Company, et al**

---

**OFFICER'S RETURN BY MAIL**

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the Defendant was served by registered mail or certified mail, with delivery restricted to addressee only, return receipt requested, a true copy of this citation with a copy of the petition attached thereto. Return receipt attached hereto.

OR

This citation was not executed for the following reason:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RHONDA BARCHAK, DISTRICT CLERK

By \_\_\_\_\_, Deputy

ATTACH  
RETURN  
RECEIPT  
WITH  
ADDRESSEE'S SIGNATURE



STATE OF TEXAS  
COUNTY OF BIRMINGHAM  
I hereby certify that the foregoing is a true and correct  
copy of the original record on file in my office.  
Given under my hand and seal of the court at  
my office in Arlington, Texas.  
RHONDA BARCHAK, DISTRICT CLERK  
Deputy

CAUSE NO. 19031-CV  
Mish Mishak Court  
Michael Jones, Jr. vs. National Union Fire Insurance Company, et al

OFFICER'S RETURN BY MAIL

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the Defendant was served by registered mail or certified mail, with delivery restricted to addressee only, return receipt requested, a true copy of this citation with a copy of the petition attached hereto. Return receipt attached hereto.

OR

This citation was not returned for the following reason:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RHONDA BARCHAK, DISTRICT CLERK

By \_\_\_\_\_ Deputy

ATTACH  
RETURN  
RECEIPT  
WITH  
ADDRESSEE'S SIGNATURE

STATE OF TEXAS  
COUNTY OF BRAZORIA

I certify that the foregoing is a true and correct copy of the original record on file in my office. Given under my hand and seal of the court at my office in Angleton, Texas.

RHONDA BARCHAK, DISTRICT CLERK

By Rhonda Allison Deputy



03/25/2020

# **EXHIBIT F**

106331-CV

	No.	
MICHAEL JONES, JR.	§	IN THE DISTRICT COURT OF
	§	
	§	
VS	§	BRAZORIA COUNTY, TEXAS
	§	
NATIONAL UNION FIRE INSURANCE	§	
COMPANY AND STATE FARM MUTUAL	§	
AUTOMOBILE INSURANCE COMPANY	§	____ JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES PLAINTIFF MICHAEL JONES, JR., complaining of DEFENDANTS NATIONAL UNION FIRE INSURANCE COMPANY AND STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, and for cause of action would respectfully show this Court and jury the following:

**DISCOVERY CONTROL PLAN**

1. Discovery is to be conducted under Level 2 of Rule 190, Texas Rules of Civil Procedure.

**PARTIES AND SERVICE**

2. Plaintiff is a resident of Brazoria County, Texas.
3. Defendant National Union Fire Insurance Company, (hereinafter "National"), is an automobile insurance company authorized to do business in Texas, which may be served through its registered agent, Corporation Service Company, 211 E 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701-3218.
4. Defendant State Farm Mutual Automobile Insurance Company, (hereinafter "State Farm"), is an automobile insurance company authorized to do business in the State of Texas, which may be served through its registered agent, Corporation Service Company, 211 E 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701-3218.

**JURISDICTION AND VENUE**

5. Venue is proper in this Court pursuant to §15.032 of the Texas Civil Practice & Remedies Code. Plaintiff's losses occurred in Brazoria County, Texas.

6. This action is brought to recover underinsured motorist benefits due Plaintiff pursuant to two automobile insurance policies. This court, therefore, has jurisdiction.

#### FACTUAL BACKGROUND

7. On or about February 21, 2018, Plaintiff was operating an 18-wheeler truck in a lawful and cautious manner headed northbound on State Highway 288. At or about the 17200 block of SH288, another vehicle, headed northbound on SH288 in an adjacent lane and operated by Walter Ray Johnson at an excessive rate of speed in rainy weather, spun out of control and hit the front of the vehicle Plaintiff was operating. The collision caused Plaintiff to lose control of his vehicle, veer off the highway and jackknife before coming to a stop in the center median. Due to the force and impact of the collision, Plaintiff sustained serious and substantial injuries and damages.

#### CAUSES OF ACTION

8. The injuries and damages suffered by Plaintiff were proximately caused by the negligent and reckless conduct of Walter Ray Johnson in one or more of the following respects:

- a) In failing to maintain such lookout as a person of ordinary prudence would have maintained under the same or similar circumstances.
- b) In failing to timely apply the brakes to the vehicle he operated in order to avoid the collision in question.
- c) In failing to apply the brakes to the vehicle he operated in order to avoid the collision in question.
- d) In failing to control the speed of his vehicle.

9. As a direct and proximate result of Walter Ray Johnson's negligent conduct, as described in paragraphs 7 and 8, Plaintiff suffered severe bodily injuries. His body was bruised, battered and contused and he suffered great shock to his entire nervous systems. The injuries will have a serious effect on the health and well-being of Plaintiff, and will abide with him for a long time, if

not for his entire life. As a further result of the nature and consequences of the injuries, Plaintiff has suffered great physical and mental pain, suffering and anguish and physical impairment and in all reasonable probability will continue to suffer in this manner for a long time into the future, if not for the balance of his natural life. By reason of all the above and foregoing Plaintiff has suffered losses and damages in an amount within the jurisdictional limits of this Court.

10. As a further result and consequence of the negligence of Walter Ray Johnson, Plaintiff has incurred expenses for necessary medical care and attention. These charges were reasonable and were the usual and customary charges made for such services. As a further result of the injuries sustained by Plaintiff, there is a reasonable probability that he will require further medical care and attention and will incur future reasonable and necessary expenses for such medical care.

11. At the time of the incident which is the basis of this lawsuit, Plaintiff was gainfully employed. As a result and consequence of the incident he was physically impaired and unable to attend his vocation for a period of time resulting in loss wages and loss wage earning capacity in an amount within the jurisdictional limits of this court.

12. At the time of the accident in question, two valid contracts of automobile insurance, issued by Defendants, covered Plaintiff. Among the provisions of the insurance contracts were underinsured motorist clauses which obligated Defendants to pay for damages sustained by Plaintiff in the event of an accident involving an underinsured motorist, that is, a motorist whose liability insurance was inadequate to cover the damages sustained in an accident.

13. Walter Ray Johnson was responsible for causing Plaintiff's injuries and damages. Plaintiff's damages exceeded the amount of automobile liability insurance covering Mr. Johnson. The per person limit of Mr. Johnson's automobile liability insurance has been tendered to Plaintiff.

Plaintiff is, thus, entitled to underinsured motorists benefits. Both Defendants have failed and refused to pay Plaintiff underinsured motorist benefits pursuant to the respective policies. This failure constitutes breach of contract. Plaintiff, therefore, seeks to recover underinsured motorist benefits from Defendants in an amount within the jurisdictional limits of this court.

14. Plaintiff has timely complied with all the conditions precedent to recovering the benefits of the underinsured motorist coverages of the automobile insurance contracts with Defendants. Notwithstanding clear liability, Defendants have failed to settle Plaintiff's claim promptly, fairly and equitably, in violation of the Texas Insurance Code. Defendants' refusal to pay the claim was done knowingly, and with the purpose of discouraging, avoiding, or reducing the payment due Plaintiff under the terms of the policy.

15. On or about July 29, 2019, Plaintiff, through his attorney, sent National notice of Plaintiff's uninsured/underinsured motorist claim and provided documentation to support the claim. This information was received by National several days later. On November 18, 2019, Plaintiff faxed another letter to National asking for a response to Plaintiff's request for underinsured motorist benefits. To date, Plaintiff has not received a response to his demand from National.

16. By failing to give Plaintiff written notification of the acceptance or rejection of his claim within 15 business days after the date National received all items, statements, and forms required to secure final proof of loss, National violated §542.056(a) of the Texas Insurance Code. Plaintiff, thus, seeks his actual damages, plus 18% interest per year, and attorneys' fees, pursuant to §542.060 of the Texas Insurance Code.

17. On September 28, 2019, Plaintiff, through his attorney, sent State Farm notice of Plaintiff's uninsured/underinsured motorist claim and provided documentation to support the claim. On

October 8, 2019, State Farm sent Plaintiff a letter requesting additional information to support the claim. That information was faxed to State Farm on November 18, 2019. To date, State Farm has not given any other response to Plaintiff's request for underinsured motorists benefits.

18. By failing to give Plaintiff written notification of the acceptance or rejection of his claim within 15 business days after the date State Farm received all items, statements, and forms required to secure final proof of loss, State Farm violated §542.056(a) of the Texas Insurance Code. Plaintiff, thus, seeks his actual damages, plus 18% interest per year, and attorneys' fees, pursuant to §542.060 of the Texas Insurance Code.

#### REQUEST FOR DISCLOSURE

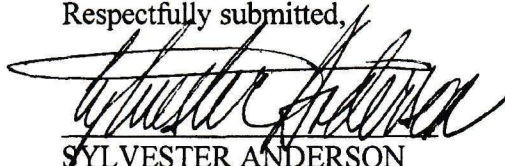
19. Plaintiff requests that each Defendant disclose the information and materials described in Rule 194.2(a-l), Texas Rules of Civil Procedure, within fifty (50) days after service of this Plaintiff's Original Petition And Request For Disclosure.

#### NOTICE PURSUANT TO TRCP 193.7

20. Notice is hereby given, pursuant to TRCP 193.7, that Plaintiff intends to use the discovery responses of Defendants at the trial of this case and any pretrial proceeding.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the Defendants be cited to appear and answer, and that on final trial Plaintiff have judgment against Defendants for monetary relief over \$200,000 but not more than \$1,000,000, plus prejudgment and post judgment interest at the rate of 18 per cent, costs of suit, reasonable attorney fees and such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,



SYLVESTER ANDERSON

Regency Square

6001 Savoy Drive, Suite 305

Houston, Texas 77036

(713) 533-9500

(713) 533-9645 (Fax)

SBOT: 01214950

[sa@sylvesteranderson.com](mailto:sa@sylvesteranderson.com)

ATTORNEY FOR PLAINTIFF

MICHAEL JONES, JR.

STATE OF TEXAS  
COUNTY OF HARRIS  
I hereby certify that the foregoing is a true and correct  
copy of the original returned to me in my office.  
Given under my hand and seal of the court at  
my office in Houston, Texas  
KIMBERLY BARON, DISTRICT CLERK  
\_\_\_\_\_  
Deputy

*[Faint, mirrored text from the reverse side of the page, including a signature and address information.]*

STATE OF TEXAS  
COUNTY OF BRAZORIA

I certify that the foregoing is a true and correct  
copy of the original record on file in my office.  
Given under my hand and seal of the court at  
my office in Angleton, Texas.

RHONDA BARCHAK, DISTRICT CLERK

By Rhonda Allison Deputy

03/29/2020



No. 106331-CV  
MICHAEL JONES, JR. § IN THE DISTRICT COURT OF  
§  
§  
VS § BRAZORIA COUNTY, TEXAS  
§  
NATIONAL UNION FIRE INSURANCE §  
COMPANY OF PITTSBURGH, PA, AND §  
STATE FARM MUTUAL AUTOMOBILE §  
INSURANCE COMPANY § 149<sup>TH</sup> JUDICIAL DISTRICT

**PLAINTIFF'S FIRST AMENDED PETITION AND REQUEST FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES PLAINTIFF MICHAEL JONES, JR., complaining of DEFENDANTS NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA, AND STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, and for cause of action would respectfully show this Court and jury the following:

**DISCOVERY CONTROL PLAN**

1. Discovery is to be conducted under Level 2 of Rule 190, Texas Rules of Civil Procedure.

**PARTIES AND SERVICE**

2. Plaintiff is a resident of Brazoria County, Texas.
3. Defendant National Union Fire Insurance Company of Pittsburg, PA, (hereinafter "National"), is an automobile insurance company authorized to do business in Texas, which may be served through its registered agent, Corporation Service Company, 211 E 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701-3218.
4. Defendant State Farm Mutual Automobile Insurance Company, (hereinafter "State Farm"), is an automobile insurance company authorized to do business in the State of Texas, which may be served through its registered agent, Corporation Service Company, 211 E 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701-3218.

#### JURISDICTION AND VENUE

5. Venue is proper in this Court pursuant to §15.032 of the Texas Civil Practice & Remedies Code. Plaintiff's losses occurred in Brazoria County, Texas.
6. This action is brought to recover underinsured motorist benefits due Plaintiff pursuant to two automobile insurance policies. This court, therefore, has jurisdiction.

#### FACTUAL BACKGROUND

7. On or about February 21, 2018, Plaintiff was operating an 18-wheeler truck in a lawful and cautious manner headed northbound on State Highway 288. At or about the 17200 block of SH288, another vehicle, headed northbound on SH288 in an adjacent lane and operated by Walter Ray Johnson at an excessive rate of speed in rainy weather, spun out of control and hit the front of the vehicle Plaintiff was operating. The collision caused Plaintiff to lose control of his vehicle, veer off the highway and jackknife before coming to a stop in the center median. Due to the force and impact of the collision, Plaintiff sustained serious and substantial injuries and damages.

#### CAUSES OF ACTION

8. The injuries and damages suffered by Plaintiff were proximately caused by the negligent and reckless conduct of Walter Ray Johnson in one or more of the following respects:
  - a) In failing to maintain such lookout as a person of ordinary prudence would have maintained under the same or similar circumstances.
  - b) In failing to timely apply the brakes to the vehicle he operated in order to avoid the collision in question.
  - c) In failing to apply the brakes to the vehicle he operated in order to avoid the collision in question.
  - d) In failing to control the speed of his vehicle.
9. As a direct and proximate result of Walter Ray Johnson's negligent conduct, as described in paragraphs 7 and 8, Plaintiff suffered severe bodily injuries. His body was bruised, battered

and contused and he suffered great shock to his entire nervous systems. The injuries will have a serious effect on the health and well-being of Plaintiff, and will abide with him for a long time, if not for his entire life. As a further result of the nature and consequences of the injuries, Plaintiff has suffered great physical and mental pain, suffering and anguish and physical impairment and in all reasonable probability will continue to suffer in this manner for a long time into the future, if not for the balance of his natural life. By reason of all the above and foregoing Plaintiff has suffered losses and damages in an amount within the jurisdictional limits of this Court.

10. As a further result and consequence of the negligence of Walter Ray Johnson, Plaintiff has incurred expenses for necessary medical care and attention. These charges were reasonable and were the usual and customary charges made for such services. As a further result of the injuries sustained by Plaintiff, there is a reasonable probability that he will require further medical care and attention and will incur future reasonable and necessary expenses for such medical care.

11. At the time of the incident which is the basis of this lawsuit, Plaintiff was gainfully employed. As a result and consequence of the incident he was physically impaired and unable to attend his vocation for a period of time resulting in loss wages and loss wage earning capacity in an amount within the jurisdictional limits of this court.

12. At the time of the accident in question, two valid contracts of automobile insurance, issued by Defendants, covered Plaintiff. Among the provisions of the insurance contracts were underinsured motorist clauses which obligated Defendants to pay for damages sustained by Plaintiff in the event of an accident involving an underinsured motorist, that is, a motorist whose liability insurance was inadequate to cover the damages sustained in an accident.

13. Walter Ray Johnson was responsible for causing Plaintiff's injuries and damages.

Plaintiff's damages exceeded the amount of automobile liability insurance covering Mr. Johnson. The per person limit of Mr. Johnson's automobile liability insurance has been tendered to Plaintiff. Plaintiff is, thus, entitled to underinsured motorists benefits. Both Defendants have failed and refused to pay Plaintiff underinsured motorist benefits pursuant to the respective policies. This failure constitutes breach of contract. Plaintiff, therefore, seeks to recover underinsured motorist benefits from Defendants in an amount within the jurisdictional limits of this court.

14. Plaintiff has timely complied with all the conditions precedent to recovering the benefits of the underinsured motorist coverages of the automobile insurance contracts with Defendants. Notwithstanding clear liability, Defendants have failed to settle Plaintiff's claim promptly, fairly and equitably, in violation of the Texas Insurance Code. Defendants' refusal to pay the claim was done knowingly, and with the purpose of discouraging, avoiding, or reducing the payment due Plaintiff under the terms of the policy.

15. On or about July 29, 2019, Plaintiff, through his attorney, sent National notice of Plaintiff's uninsured/underinsured motorist claim and provided documentation to support the claim. This information was received by National several days later. On November 18, 2019, Plaintiff faxed another letter to National asking for a response to Plaintiff's request for underinsured motorist benefits. To date, Plaintiff has not received a response to his demand from National.

16. By failing to give Plaintiff written notification of the acceptance or rejection of his claim within 15 business days after the date National received all items, statements, and forms required to secure final proof of loss, National violated §542.056(a) of the Texas Insurance Code. Plaintiff, thus, seeks his actual damages, plus 18% interest per year, and attorneys' fees, pursuant to §542.060 of the Texas Insurance Code.

17. On September 28, 2019, Plaintiff, through his attorney, sent State Farm notice of Plaintiff's uninsured/underinsured motorist claim and provided documentation to support the claim. On October 8, 2019, State Farm sent Plaintiff a letter requesting additional information to support the claim. That information was faxed to State Farm on November 18, 2019. To date, State Farm has not given any other response to Plaintiff's request for underinsured motorists benefits.

18. By failing to give Plaintiff written notification of the acceptance or rejection of his claim within 15 business days after the date State Farm received all items, statements, and forms required to secure final proof of loss, State Farm violated §542.056(a) of the Texas Insurance Code. Plaintiff, thus, seeks his actual damages, plus 18% interest per year, and attorneys' fees, pursuant to §542.060 of the Texas Insurance Code.

#### REQUEST FOR DISCLOSURE

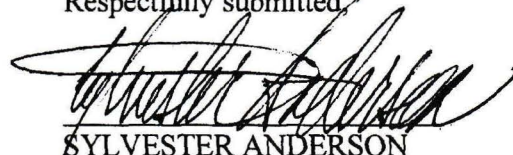
19. Plaintiff requests that each Defendant disclose the information and materials described in Rule 194.2(a-1), Texas Rules of Civil Procedure, within fifty (50) days after service of this petition.

#### NOTICE PURSUANT TO TRCP 193.7

20. Notice is hereby given, pursuant to TRCP 193.7, that Plaintiff intends to use the discovery responses of Defendants at the trial of this case and any pretrial proceeding.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the Defendants be cited to appear and answer, and that on final trial Plaintiff have judgment against Defendants for monetary relief over \$200,000 but not more than \$1,000,000, plus prejudgment and post judgment interest at the rate of 18 per cent, costs of suit, reasonable attorney fees and such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,



SYLVESTER ANDERSON

Regency Square  
6001 Savoy Drive, Suite 305  
Houston, Texas 77036  
(713) 533-9500  
(713) 533-9645 (Fax)  
SBOT: 01214950  
[sa@sylvesteranderson.com](mailto:sa@sylvesteranderson.com)

ATTORNEY FOR PLAINTIFF  
MICHAEL JONES, JR.

STATE OF TEXAS  
COUNTY OF BRAZORIA  
I certify that the foregoing is a true and correct  
copy of the original record on file in my office.  
Given under my hand and seal of the court at  
my office in Brazoria, Texas,  
RHONDA BARCHAK, DEPUTY CLERK  
\_\_\_\_\_  
Deputy

Respectfully submitted,  
  
MICHAEL JONES, JR.  
ATTORNEY FOR PLAINTIFF  
2801 W. 14TH STREET  
HOUSTON, TEXAS 77058  
(713) 231-9945 (Fax)  
(713) 231-9500  
6001 S. Loop West, Suite 302  
Houston, Texas 77058  
m.jones@mjlaw.com

STATE OF TEXAS  
COUNTY OF BRAZORIA

I certify that the foregoing is a true and correct  
copy of the original record on file in my office.  
Given under my hand and seal of the court at  
my office in Angleton, Texas.  
RHONDA BARCHAK, DISTRICT CLERK

By Rhonda Allison Deputy

03/25/2020



**CAUSE NO. 106331-CV**

<b>MICHAEL JONES, JR.</b>	§	<b>IN THE DISTRICT COURT OF</b>
	§	
	§	
<b>v.</b>	§	<b>BRAZORIA COUNTY, TEXAS</b>
	§	
<b>NATIONAL UNION FIRE INSURANCE</b>	§	
<b>COMPANY AND STATE FARM MUTUAL</b>	§	
<b>AUTOMOBILE INSURANCE COPANY</b>	§	<b>149<sup>TH</sup> JUDICIAL DISTRICT</b>

---

**DEFENDANT STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY'S  
ORIGINAL ANSWER**

---

Defendant State Farm Mutual Automobile files this original answer to Plaintiff's Original Petition, and would respectfully show the following:

**I. GENERAL DENIAL**

Defendant generally denies each and every allegation contained in Plaintiff's Original Petition pursuant to Texas Rule of Civil Procedure 92, and demands strict proof thereof by a preponderance of the credible evidence.

**II. AFFIRMATIVE DEFENSES**

Defendant alleges that in the unlikely event Plaintiff is found to be entitled to any damages in this matter, which is denied, Plaintiff is not entitled to recover prejudgment interest on any future damages.

Defendant alleges any prejudgment interest recoverable is limited in accordance with the terms of Texas Finance Code Annotated § 304.101 *et. seq.*

Defendant alleges any post judgment interest recoverable is limited in accordance with Texas Finance Code Annotated § 304.003(c).

Defendant alleges that to the extent Plaintiff seeks recovery for medical bills, expenses, and services that were incurred, but were never charged to Plaintiff, or were never paid or incurred because it exceeded the amount authorized by Medicaid, private insurer or any other entity, Defendant asserts Plaintiff is not entitled to recover those amounts. Similarly, Defendant alleges that to the extent any healthcare provider has written off the charges for medical care, then Defendant is entitled to a credit or offset for the total amount of write-offs or expenditures incurred and paid by others accruing to Plaintiffs pursuant to Texas Civil Practice and Remedies Code § 41.0105.

Defendant alleges that to the extent Plaintiffs seek to recover lost wages, lost wage earning capacity, lost contribution of pecuniary value or loss of inheritance, the limitations of Texas Civil Practice and Remedies Code § 18.091 apply.

Plaintiff is barred from recovering all or a portion of the claims asserted in Plaintiff's Original Petition because Plaintiff failed to mitigate his damages

### **III. JURY DEMAND**

Defendant demands a jury trial and tenders the appropriate fee in accordance with the Texas rules of Civil Procedure and the Local Rules of this jurisdiction.

### **IV. 193.7 NOTICE**

Pursuant to the Texas Rule of Civil Procedure 193.7, Defendant provides all parties notice that the production of any document in response to written discovery authenticates that document for use against that party in any pretrial proceeding or at trial.

### **V. REQUESTS FOR DISCLOSURE**

Pursuant to Texas Rules of Civil Procedure, Plaintiff is requested to disclose and serve, within thirty (30) days of service of the Request, the information or material described in Rule

194.2(a) - (l). Plaintiff shall supplement all disclosures pursuant to TEX. R. CIV. P. 193.5.


**VI. CONCLUSION**

WHEREFORE, PREMISES CONSIDERED, Defendant State Farm Mutual Automobile respectfully prays for a judgment that Plaintiff take nothing, that Defendant recover all its costs, and that Defendant be granted all other relief, at law and in equity, to which it may be justly entitled.

Respectfully submitted,

LINDOW ▪ STEPHENS ▪ TREAT LLP

By:


  
\_\_\_\_\_  
Scott G. Marcinkus  
State Bar No. 24099703  
One Riverwalk Place  
700 N. St. Mary's Street, Suite 1700  
San Antonio, Texas 78205  
(210) 227-2200 (telephone)  
(210) 227-4602 (facsimile)  
[smarcinkus@lstlaw.com](mailto:smarcinkus@lstlaw.com)

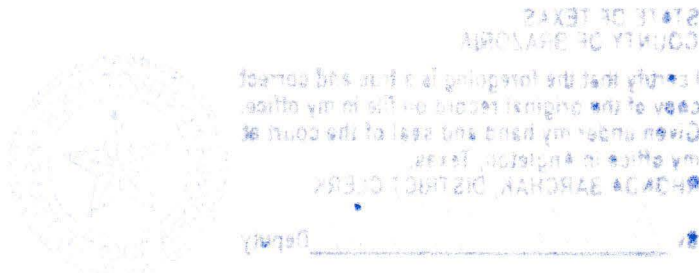
*Counsel for Defendant State Farm Mutual  
Automobile*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Defendant State Farm Mutual Automobile's Original Answer was served by facsimile and/or electronic service on the 16<sup>th</sup> day of **March, 2020**, upon the following:

Sylvester Anderson  
THE LAW OFFICE OF SYLVESTER ANDERSON  
6001 Savoy Drive, Suite 305  
Houston, Texas 77036  
[sa@sylvesteranderson.com](mailto:sa@sylvesteranderson.com)

  
\_\_\_\_\_  
Scott G. Marcinkus



**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Defendant State Farm Mutual Automobile's Original Answer was served by facsimile and/or electronic service on the 18<sup>th</sup> day of March, 2020, upon the following:

THE LAW OFFICE OF SYLVIA R. ANDERSON  
6001 Navy Drive, Suite 305  
Houston, Texas 77056  
sra@syviananderson.com

  
Sylvia R. Anderson

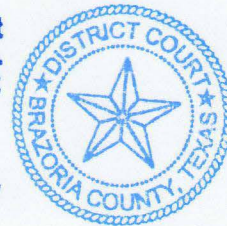
**STATE OF TEXAS  
COUNTY OF BRAZORIA**

I certify that the foregoing is a true and correct copy of the original record on file in my office. Given under my hand and seal of the court at my office in Angleton, Texas.

**RHONDA BARCHAK, DISTRICT CLERK**

By Rhonda Allison Deputy

03/25/2020



**CAUSE NO. 106331-CV**

**MICHAEL JONES, JR.,**  
**Plaintiff,**

**v.**

**NATIONAL UNION FIRE INSURANCE**  
**COMPANY OF PITTSBURGH, PA, AND**  
**STATE FARM MUTUAL AUTOMOBILE**  
**INSURANCE COMPANY,**  
**Defendants.**

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**IN THE DISTRICT COURT OF**

**BRAZORIA COUNTY, TEXAS**

**149TH JUDICIAL DISTRICT**

**DEFENDANT NATIONAL UNION FIRE INSURANCE COMPANY**  
**OF PITTSBURGH, PA'S ORIGINAL ANSWER**

**TO THE HONORABLE COURT:**

**COMES NOW** Defendant, **NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA**, (hereinafter "Defendant"), in the above-entitled and numbered cause, and files this Original Answer to Plaintiff's Original Petition, and in support thereof would respectfully show the Court as follows:

**GENERAL DENIAL**

Defendant generally denies each and every allegation contained in Plaintiff's Original Petition and demands strict proof thereof by preponderance of the credible evidence.

**JURY DEMAND**

Defendant demands a trial by jury.

**PRAYER**

**WHEREFORE, PREMISES CONSIDERED**, Defendant prays that Plaintiff take nothing by its suit, and that Defendant go hence without delay, that Defendant recover its costs, and for such other and further relief to which Defendant may be justly entitled at law or in equity.

Respectfully submitted,

By: 

**DAVID J. METZLER**

Texas Bar No. 13982550

**HAYLEY A. CUTLER**

Texas Bar No. 24106712

[dmetzler@cowlesthompson.com](mailto:dmetzler@cowlesthompson.com)

[hcutter@cowlesthompson.com](mailto:hcutter@cowlesthompson.com)

**COWLES & THOMPSON, P.C.**

901 Main Street, Suite 3900

Dallas, TX 75202

(214) 672-2000 (Tel)

(214) 672-2020 (Fax)

**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**


The undersigned certifies that on the 20<sup>th</sup> day of March 2020, a true and correct copy of the foregoing document was electronically filed with the District Clerk for Brazoria County, Texas. The electronic case filing system sent a "Notice of Electronic Filing" to those attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

  
**HAYLEY A. CUTLER**

COUNTY OF BRAZORIA




I certify that this foregoing is a true and correct copy of the original record as filed in my office. Given under my hand and seal of the court in my office in Houston, Texas, this 3<sup>rd</sup> day of April, 2020.  
RHONDA BARCHAK, DISTRICT CLERK  
By: \_\_\_\_\_

Respectfully submitted,  
  
\_\_\_\_\_  
DAVID A. MUELLER  
Texas Bar No. 13982250  
BAYLEY A. CUTLER  
Texas Bar No. 24106712  
law@baylorlaw.com  
baylorlaw.com

GOWLES & THOMPSON, P.C.  
901 Main Street, Suite 3900  
Dallas, TX 75202  
(214) 672-2000 (Tel)  
(214) 672-2020 (Fax)  
ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

The undersigned certifies that on the 25<sup>th</sup> day of March 2020, a true and correct copy of the foregoing document was electronically filed with the District Clerk for Brazoria County, Texas. The electronic case filing system sent a "Notice of Electronic Filing" to those attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

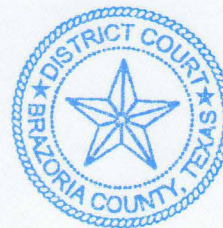
  
\_\_\_\_\_  
RHONDA ALLUM

STATE OF TEXAS  
COUNTY OF BRAZORIA

I certify that the foregoing is a true and correct copy of the original record on file in my office. Given under my hand and seal of the court at my office in Angleton, Texas.  
RHONDA BARCHAK, DISTRICT CLERK

By Rhonda Allum Deputy

03/25/2020



# EXHIBIT G

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION**

**MICHAEL JONES, JR.,  
Plaintiff,**

**v.**

**NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA, AND  
STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY,  
Defendants.**

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§

**CIVIL ACTION NO: 3:20-cv-109**

**LIST OF ALL COUNSEL OF RECORD**

**COUNSEL FOR PLAINTIFF**

Sylvester Anderson  
Law Offices of Sylvester Anderson  
6001 Savoy Drive, Suite 305  
Houston, Texas 77036  
Tel: (713) 533-9500  
Fax: (713) 533-9645  
[sa@sylvesteranderson.com](mailto:sa@sylvesteranderson.com)

**COUNSEL FOR DEFENDANT  
NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA**

David J. Metzler  
Cowles & Thompson, PC  
901 Main Street, Suite 3900  
Dallas, Texas 75202  
Tel: (214) 672-2000  
Fax: (214) 672-2020  
[dmetzler@cowlesthompson.com](mailto:dmetzler@cowlesthompson.com)

**COUNSEL FOR DEFENDANT STATE  
FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY**

Scott G. Marcinkus  
Lindow, Stephens, Treat LLP  
One Riverwalk Place  
700 N. St. Mary's Street, Suite 1700  
San Antonio, Texas 78205  
Tel: (210) 227-2200  
Fax: (210) 227-4602  
[smarcinkus@lstlaw.com](mailto:smarcinkus@lstlaw.com)

**CERTIFICATE OF SERVICE**

The undersigned certifies that on the 3rd day of April, 2020, a true and correct copy of the foregoing document was delivered via electronic service to counsel of record below.

Sylvester Anderson  
Regency Square  
6001 Savoy Drive, Suite 305  
Houston, Texas 77036  
Tel: (713) 533-9500  
Fax: (713) 533-9645  
[sa@sylvesteranderson.com](mailto:sa@sylvesteranderson.com)  
**COUNSEL FOR PLAINTIFF**

Scott G. Marcinkus  
State Bar No. 24099703  
Lindow, Stephens, Treat, LLP  
One Riverwalk Place  
700 N. St. Mary's Street, Suite 1700  
San Antonio, Texas 78205  
Tel: (210) 227-2200  
Fax: (210) 227-4602  
[smarcinkus@lstlaw.com](mailto:smarcinkus@lstlaw.com)  
**COUNSEL FOR DEFENDANT**  
**STATE FARM MUTUAL**  
**AUTOMOBILE INSURANCE**

/s/ David J. Metzler  
**DAVID J. METZLER**

# EXHIBIT H

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Michael Jones Jr.

(b) County of Residence of First Listed Plaintiff Brazoria

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Sylvester Anderson, Law Offices of Sylvester Anderson, 6001 Savoy Drive, Suite 305, Houston, Texas 77036 (713) 533-9500.

**DEFENDANTS**National Union Fire Insurance Company of Pittsburgh, PA;  
State Farm Mutual Automobile Insurance Company

County of Residence of First Listed Defendant \_\_\_\_\_

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

David J. Metzler, Cowles &amp; Thompson, PC, 901 Main Street, Suite 3900, Dallas, TX 75202 (214) 672-2000; Scott G. Marcinkus, Lindow, Stephens, Treat, LLP, One Riverwalk Place, 700 N. St. Mary's Street

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
		<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act		
		<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

**V. ORIGIN** (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 USC 1332

Brief description of cause:

Underinsured Motorist/Breach of Contract**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ \_\_\_\_\_

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE Terri HolderDOCKET NUMBER 106331-CV

DATE

04/02/2020

SIGNATURE OF ATTORNEY OF RECORD

David J. Metzler

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_

AMOUNT \_\_\_\_\_

APPLYING IFP \_\_\_\_\_

JUDGE \_\_\_\_\_

MAG. JUDGE \_\_\_\_\_

Print

Save As...

Reset